

**MEMORANDUM OF UNDERSTANDING BETWEEN THE
WALTON FAMILY FOUNDATION, INC.; PATTON LIMITED;
THE CITY OF SILOAM SPRINGS, ARKANSAS; THE SILOAM
SPRINGS WATER RESOURCE COMPANY; AND THE GRAND
RIVER DAM AUTHORITY MADE IN CONNECTION WITH THE
DEVELOPMENT OF A PLANNED KAYAKING AND WATER
PARK FACILITY IN ADAIR COUNTY OKLAHOMA**

1. **RECITALS.** The purpose of this memorandum is to state the commitments of the parties to the planning, funding, construction, and operation of a kayaking and water park facility ("The Park") south of Siloam Springs, Arkansas, in Adair County, Oklahoma. Two conceptual drawings showing the general location of The Park are attached as Exhibits A and B. The Park will be located on the Illinois River downstream (west) of a water intake facility owned and utilized by the Siloam Springs Water Resource Company which provides raw water to the Siloam Springs Water Treatment Facility through a pipe which traverses northward and crosses into Arkansas before reaching the treatment location. It provides potable water for Siloam Springs.
2. **THE PARTIES.** The Walton Family Foundation, Inc. is a Delaware non-stock, nonprofit corporation (the "Foundation") with its principal office in Bentonville, Arkansas. It is presently engaged in planning The Park through an engineering firm with which it has contracted.

Patton Limited ("Patton") is an Arkansas limited liability company which owns real property adjacent to and north of the Illinois River at the site for The Park.

Siloam Springs, Arkansas ("The City") is an Arkansas municipal corporation located adjacent to the Arkansas/Oklahoma state line north of The Park. For over fifty years it has drawn water from its present intake site on the Illinois River. As set forth in more detail below, the protection of this water source for The City is the paramount consideration in the planning, construction and operation of The Park. The City acknowledges that operation of The Park will generate tourism which will inure to its benefit and agrees to reimburse, per City resolution 21-17, \$700,000 to this project at a time to be determined.

Siloam Springs Water Resource Company ("SSWRC") is an Oklahoma corporation, the stock of which is owned by The City. It owns real property on the north and south sides of the Illinois River at the site of The Park in addition to the real property on which the water intake facility is located. In accord with this agreement, it will deed a portion of its owned property for The Park. SSWRC is also the owner of the Lake Francis dam around which the kayak facility will divert river water for usage by The Park.

The Grand River Dam Authority ("GRDA") is an Oklahoma Agency created by the Oklahoma legislature with its headquarters located in Vinita, Oklahoma. The GRDA is vested with sufficient authority to own, construct and operate The Park utilizing Foundation funds with the Foundation as the

grantor and GRDA as the grantee. The GRDA agrees not to sell the Park property or any portion thereof to a third-party without SSWRC/City approval.

The Parties agree to cooperate one with the other in good faith in contemplation of the creation and future operation of The Park for the benefit of the citizens of Oklahoma and Arkansas and all others who use the facility.

3. **PLANNING.** The Park is currently being planned by The Foundation utilizing the services of McLaughlin Whitewater Design Group. The Foundation will continue responsibility for the engineering and planning process until completed in communication with The City and GRDA. GRDA will be responsible for obtaining those permits from federal and state agencies necessary to construct and operate The Park. The Foundation will reimburse GRDA for the costs associated with permit application. The GRDA, SSWRC and The City agree to provide reasonable access by The Foundation and its contractors and GRDA and its contractors to the future site of The Park including obtaining potential core samples; provided, no coring or other disturbance of land owned by SSWRC will occur without the prior knowledge and permission of The City or SSWRC.
4. **TRANSFER OF THE PROPERTY; POTENTIAL FOR REVERSION.** Upon completion of the engineering and permitting process to the satisfaction of The Parties and after construction bids are received and a contractor is selected, SSWRC and Patton will transfer fee simple title, by a deed satisfactory to GRDA, to GRDA of those properties on the north side of the Illinois River necessary for the construction and future operation of The Park. The transfer to GRDA will occur following bid opening and approval by The GRDA and The Foundation of the total cost of construction based upon the bids received. Transfer to GRDA prior to the commencement of construction is necessary because GRDA is not willing to be responsible for construction on property it does not own. Therefore, the deeds will contain reversionary clauses providing for reversion to the Grantors if (1) GRDA abandons construction of The Park or construction is not completed within three years of the transfers; (2) the property is used for any purpose other than as The Park; (3) if, for any reason, GRDA ceases to operate The Park in a manner consistent with items 6 (1) and (2), below; or (4) The GRDA finds that its continued operation of The Park is no longer in the best interest of The GRDA and its customers. If any of the four reasons for reversion shall occur, The Parties agree to cooperate one with the other in completing a return of The Park property previously conveyed to the Grantors free of all liens and encumbrances.
5. **BIDDING AND CONSTRUCTION.** The GRDA will seek bids for the construction of The Park in conformance with the final plans submitted by The Foundation and in conformance with its legal bidding requirements. GRDA agrees that it will contribute \$700,000 to the project in kind, presently contemplated to be in association with strengthening the spillway utilizing material removed during the creation of the kayak whitewater course. The GRDA and The Foundation reserve unto themselves final approval of all construction contracts and the costs associated therewith. Once those written approvals are given construction of The Park shall commence.

6. **COMPLETION OF THE PARK.** Upon completion of The Park it shall be owned and operated by the GRDA as follows. (1). No alcohol may be sold or consumed on the premises. The Park shall be operated as a family oriented facility, welcome to all. (2). While understanding that The Park must be operated in a manner consistent with its long- term sustainability, cost of entry and use shall be held to a cost of service basis. (3). The Foundation will reimburse GRDA for the reasonable cost of its first year of operation. The Parties acknowledge and agree that GRDA in its discretion may enter into contracts with third parties to perform work associated with the operation of The Park.
7. **GRANT PAYMENTS BY THE FOUNDATION.** When the GRDA becomes financially responsible for construction The Foundation shall have financed all planning and engineering necessary for construction, i.e. all costs associated with the facility to the time of property transfer to the GRDA. Thereafter, after mutual approval of the project following bid approval and construction contracting the GRDA and The Foundation shall agree on the timing of grants from The Foundation to the GRDA such that the accounts of the GRDA shall consistently have the funds necessary to conform with its construction contract obligations to completion.
8. **MAINTENANCE OF WATER LEVELS AT ALL TIMES.** The Parties have acknowledged that the paramount consideration in the planning, construction and operation of The Park is the ability of The City to obtain water from its intake site. Therefore, at no time will the construction or operation of The Park interfere with or cause the water level at the intake site to be lower than 909.4 feet above sea level. The entrance gate to the kayak watercourse is contemplated to be controlled by a gage which monitors upstream water levels. It is also contemplated that the gage will be capable of remote monitoring by both GRDA and SSWRC/City including an alarm system to alert both parties if flow drops below minimum levels. In an emergency, if the entrance gate system fails or otherwise, SSWRC/City shall be provided with "stop logs" or other suitable devices and granted the right of entry to place them across the kayak watercourse entry to assure minimum water levels to protect the intake until the situation passes.
9. **DAM AND SPILLWAY OWNERSHIP.** The current darn and spillway will remain owned and maintained by SSWRC. It is contemplated that material obtained from construction of the kayak watercourse will be used during construction to shore up the downstream side of the darn and spillway, a development agreed by all to be desirable. SSWRC and The City agree to this plan, the specifics of which will be mutually agreed between the Parties in conjunction with the planning phase. The Parties acknowledge and agree that any maintenance, construction, or other work performed by GRDA on the dam or spillway will neither change nor effect SSWRC's ownership of the dam and spillway and the responsibilities that go therewith.
10. **EASEMENTS.** Each party agrees to grant to other parties any temporary access easements necessary to accomplish the intentions of this agreement. In addition SSWRC agrees to grant to GRDA an easement on property it owns on the south side of the Illinois River at and above the dam site to control access to The Park from the south side of the river.

11. **FURTHER DOCUMENTS.** The Parties agree that this Memorandum of Understanding is executed during the planning process for The Park. Each party recognizes that before funding of the construction grant by The Foundation to GRDA additional formal binding contracts must be executed consistent with and in furtherance of the intentions of this Agreement. Additionally, any funding to be provided by the Foundation to support the activities described in the Memorandum of Understanding are subject to the approval of the Foundation in accordance with its internal process. To that end they agree to proceed in good faith one with the other to complete all things necessary for the creation of The Park.

WALTON FAMILY FOUNDATION

By: 

Date: ~~Oct~~. OCT. 17, 2017

CITY OF SILOAM SPRINGS, ARKANSAS

By: 

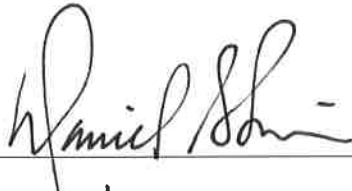
Date: October 17, 2017

**SILOAM SPRINGS WATER
RESOURCE COMPANY**

By: 

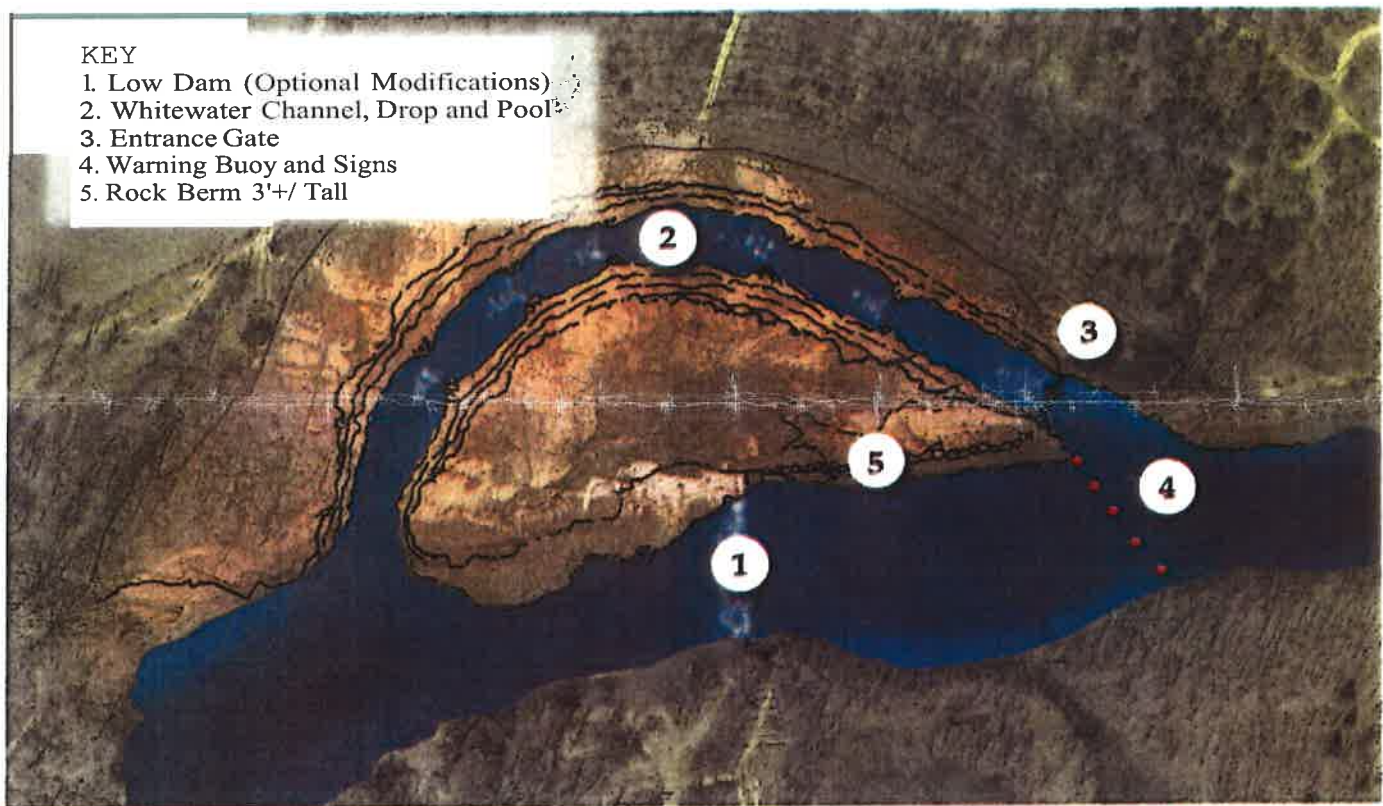
Date: October 17, 2017

GRAND RIVER DAM AUTHORITY

By:  JTH

Date: 11/9/17

EXHIBIT A



LAKE FRANCIS WHITEWATER PARK SCHEMATIC PLAN

MARCH 2016

EXHIBIT B

